

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 3, Rio Nutrias

**ORDER MAKING FINAL DETERMINATION OF
PRIORITY DATES AND IRRIGATION WATER REQUIREMENTS
IN THE RIO NUTRIAS SUBSECTION OF SECTION 3
OF THE RIO CHAMA STREAM SYSTEM**

THIS MATTER is before the Court on the Motion of the Plaintiff State of New Mexico, *ex rel.*, State Engineer for Order Making Final Determination of Priority Dates and Irrigation Water Requirements in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System (“Nutrias Subsection”) filed September 16, 2010 (Docket. No. ____).

The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises finds the Motion to be well-taken, and that it should be GRANTED. Further, the Court FINDS that:

Each of the individual subfile defendants in the Nutrias Subsection, the community ditches in the Nutrias Subsection and the United States of America have been served with the Court’s Notice and Order to Show Cause in connection with the proposed determination of priority dates and irrigation water requirements in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream

System.

The Court's Notice and Order to Show Cause has been published in the Rio Grande Sun once each week for 4 consecutive weeks, the first publication being on the 3rd day of June 2010 and the last publication being on 24th day of June 2010.

Notice of the proposed determination of priority dates and irrigation water requirements in the Nutrias Subsection has been provided to all claimants, known and unknown, who may claim or have a right to use the surface waters of the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System.

The Court's Notice and Order to Show Cause required all claimants who disagree with the State's proposed determination of the priority date of their water rights, or any other person's water rights, for surface water irrigation use in the Nutrias Subsection, or who disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Nutrias Subsection, to file an objection to the proposed determination of priority dates and irrigation water requirements in the Nutrias Subsection by July 31, 2010.

No objection to the proposed determination of priority dates or irrigation water requirements in the Nutrias Subsection has been filed with the Court.

There is no just reason for delay for the entry of a final judgment as to priority dates and irrigation water requirements for surface water irrigation use in the Nutrias Subsection, and the Court enters this Order as a final judgment as to the priority dates and irrigation water requirements of the water rights described herein. This determination is not subject to a general right of claimants in the Nutrias Subsection to file objections to individual adjudication orders, and subsequent *inter se* proceedings in the Nutrias Subsection will not include the opportunity for any claimants, known or

unknown, who claim a right to use surface waters in the Nutrias Subsection to file an objection to the determination of the elements of the water rights described herein.

IT IS THEREFORE ORDERED that the priority dates of the community and private ditches in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System, and all individual irrigation water rights served by those ditches, are as set forth below:

DITCH	PRIORITY DATE
La Acequia Del Terrero	1888
La Acequia Del Gilberto	1888
Tafoya/Esquibel	1885
Esquibel/Valdez	1890
Vega	1878
Ben Valdez	1878
Joe B. Valdez	1895
Espiriano Velasquez	1899
Acequia Perfecto Esquibel	1875
Acequia Pedro Esquibel	1893
Esquibel	1885
Unnamed Ditch No. 2	1885
Unnamed Ditch No. 3	1885
Abeyta	1877
Epifanio Ulibarri	1878
Maes/Sanchez	1882
Luis Sanchez	1882
Martinez/Ulibarri	1882
Salomon Ulibarri	1882
Juan Ulibarri	1882
Emilio Samora	1868
Juan Pablo Samora	1904

IT IS FURTHER ORDERED that the irrigation water requirements for surface water irrigation use in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System are as set forth below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.13 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.83 acre-feet per acre per annum.

c. The project diversion requirement (PDR) is 4.71 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockpounds or other impoundments determined to have valid water rights in these proceedings.

IT IS FURTHER ORDERED that the priority dates and the amount of water for surface water irrigation use described in individual subfile orders in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System are adjudicated as follows:

A. All individual subfile orders entered by the Court for surface water irrigation use in the Nutrias Subsection are amended to incorporate in the description of water rights the priority dates and irrigation water requirements described above, as summarized and set forth in the Appendix attached hereto.

B. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 4.71 acre-feet per acre per annum diverted by the ditch from the surface source, or

2.83 acre-feet per acre per annum delivered to the farm headgate, or a beneficial consumptive use of 1.13 acre-feet per acre per annum.

C. Any diversion and use of the waters of the Rio Chama Stream System in the Rio Nutrias Subsection of Section 3 by any defendant except in strict accordance with the water rights described herein is prohibited.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

SPECIAL MASTER VICKIE L. GABIN